
By: **Delegate James (Chairman, Joint Committee on Pensions)**

Introduced and read first time: February 4, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System - Disability Retirement Appeals -**
3 **Procedures**

4 FOR the purpose of prohibiting the Board of Trustees of the State Retirement and
5 Pension System from holding certain hearings; authorizing either a member of
6 the State Retirement and Pension System or the Board of Trustees to appeal
7 certain decisions to the Office of Administrative Hearings; requiring the Office
8 of Administrative Hearings to issue a written finding of fact setting forth certain
9 reasons; prohibiting the Office of Administrative Hearings from deciding certain
10 issues; requiring the Office of Administrative Hearings to remand certain
11 appeals to the medical board of the State Retirement and Pension System;
12 authorizing the medical board to revise or uphold certain decisions; requiring
13 the Office of Administrative Hearings to adopt certain decisions of the medical
14 board as final decisions; requiring that certain final decisions of the Office of
15 Administrative Hearings be in accordance with certain provisions of the State
16 Government Article; requiring that certain final decisions of the Office of
17 Administrative Hearings are the final administrative appeals for those cases;
18 authorizing either a member of the State Retirement and Pension System or the
19 Board of Trustees to seek further judicial review of certain decisions of the Office
20 of Administrative Hearings in accordance with certain provisions of the State
21 Government Article; providing for the application of this Act; defining a certain
22 term; and generally relating to the procedures governing disability retirement
23 appeals for the State Retirement and Pension System.

24 BY repealing and reenacting, with amendments,
25 Article - State Personnel and Pensions
26 Section 21-111
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 2003 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - State Personnel and Pensions
31 Section 21-126
32 Annotated Code of Maryland

1 (1997 Replacement Volume and 2003 Supplement)

2 BY adding to

3 Article - State Personnel and Pensions

4 Section 21-701 through 21-703, inclusive, to be under the new subtitle "Subtitle

5 7. Disability Hearings"

6 Annotated Code of Maryland

7 (1997 Replacement Volume and 2003 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - State Personnel and Pensions**

11 21-111.

12 (a) (1) As the Board of Trustees considers necessary to properly administer
13 and enforce this Division II or regulations adopted under this Division II, the Board of
14 Trustees may:

15 (i) require any officer or unit of the State or of a political
16 subdivision of the State to furnish the Board of Trustees without charge with a
17 certified copy of any record or paper in the official custody of the officer or unit; and

18 (ii) issue a summons, subpoena, or other process, for the attendance
19 of witnesses and the production of documents before the Board of Trustees.

20 (2) The Board of Trustees, or any trustee on the Board of Trustees, may
21 administer an oath to a witness who appears before the Board of Trustees.

22 (b) (1) In addition to any hearing that Title 10 of the State Government
23 Article requires, AND EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,
24 the Board of Trustees may hold hearings as necessary to perform its duties.

25 (2) The hearings are governed by regulations of the Board of Trustees.

26 (3) The Board of Trustees is not bound by technical rules of evidence.

27 (4) [If the Board of Trustees approves an application for disability
28 retirement on behalf of a State police officer under § 2-415(b) of the Public Safety
29 Article, the Board of Trustees shall hold a hearing unless the officer waives the
30 hearing in writing] THE BOARD OF TRUSTEES MAY NOT HOLD A HEARING
31 REGARDING AN APPEAL OF A DECISION MADE BY THE OFFICE OF ADMINISTRATIVE
32 HEARINGS TO GRANT OR DENY A DISABILITY RETIREMENT.

33 21-126.

34 (a) The Board of Trustees shall establish one or more medical boards.

1 (b) (1) Each medical board consists of three members and not more than
2 three alternates.

3 (2) Each medical board member and alternate shall be a physician who
4 is not eligible to be a member of a State system.

5 (3) The Board of Trustees shall appoint the medical board members and
6 any alternates.

7 (4) In the absence of a medical board member, an alternate may serve on
8 a medical board.

9 (c) Two members of a medical board are a quorum for the conduct of business.

10 (d) A medical board shall:

11 (1) arrange for and approve all medical examinations required under
12 this Division II;

13 (2) investigate all essential certificates and statements by or on behalf of
14 a member concerning the application of the member for disability Retirement; and

15 (3) submit written reports to the Board of Trustees, with conclusions and
16 recommendations, on all matters that the Board of Trustees refers to the medical
17 board.

18 (e) The Board of Trustees may employ other physicians to report on special
19 cases.

20 SUBTITLE 7. DISABILITY HEARINGS.

21 21-701.

22 IN THIS SUBTITLE, "OFFICE" MEANS THE OFFICE OF ADMINISTRATIVE
23 HEARINGS.

24 21-702.

25 (A) IF EITHER A MEMBER OR THE BOARD OF TRUSTEES IS AGGRIEVED AS A
26 RESULT OF THE FINAL DETERMINATION OF THE MEDICAL BOARD UNDER § 21-126 OF
27 THIS TITLE, THEN THE AGGRIEVED PARTY MAY APPEAL THE DECISION TO THE
28 OFFICE.

29 (B) THE OFFICE SHALL ISSUE A WRITTEN FINDING OF FACT SETTING FORTH
30 THE REASONS FOR THE FINAL DECISION REGARDING AN APPEAL UNDER
31 SUBSECTION (A) OF THIS SECTION.

32 (C) THE FINAL DECISION OF THE OFFICE MAY NOT INCLUDE DECISIONS ON
33 THE FOLLOWING:

34 (1) WHETHER THE MEMBER IS DISABLED;

1 (2) WHETHER A MEMBER'S FAILURE TO SUBMIT A DISABILITY FORM
2 DURING THE FILING PERIOD PRESCRIBED BY THE BOARD OF TRUSTEES WAS
3 ATTRIBUTABLE SOLELY TO THE MENTAL OR PHYSICAL INCAPACITY OF THE
4 APPLICANT DURING THE FILING PERIOD; OR

5 (3) WHETHER A MEMBER'S FAILURE TO SUBMIT A DISABILITY FORM
6 DURING THE REQUIRED 5-YEAR PERIOD WAS ATTRIBUTABLE TO PHYSICAL OR
7 MENTAL CONDITIONS THAT RESULTED DIRECTLY FROM THE EVENT OR ACT OF DUTY
8 THAT CAUSED THE DISABILITY.

9 (D) (1) THE OFFICE WILL REMAND ANY APPEAL THAT IS BASED ON THE
10 ISSUES LISTED IN SUBSECTION (C) OF THIS SECTION TO THE MEDICAL BOARD FOR
11 FURTHER REVIEW.

12 (2) (I) AFTER RECONSIDERING THE APPEAL, THE MEDICAL BOARD
13 MAY EITHER UPHOLD THE MEDICAL BOARD'S ORIGINAL DECISION OR ISSUE A
14 REVISED DECISION.

15 (II) A DECISION ISSUED BY THE MEDICAL BOARD UNDER THIS
16 PARAGRAPH SHALL BE ADOPTED BY THE OFFICE AS A FINAL DECISION.

17 (E) A FINAL DECISION ISSUED UNDER THIS SECTION SHALL BE IN
18 ACCORDANCE WITH § 10-221 OF THE STATE GOVERNMENT ARTICLE AND IS THE
19 FINAL ADMINISTRATIVE DECISION OF THE APPEAL.

20 21-703.

21 IF EITHER A MEMBER OR THE BOARD OF TRUSTEES IS AGGRIEVED AS A RESULT
22 OF A FINAL DECISION OF THE OFFICE UNDER § 21-702, THEN THE AGGRIEVED PARTY
23 IS ENTITLED TO JUDICIAL REVIEW IN ACCORDANCE WITH § 10-222 OF THE STATE
24 GOVERNMENT ARTICLE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall only apply
26 to any decision made by the medical board of the State Retirement and Pension
27 System under § 21-126 of the State Personnel and Pensions Article that is appealed
28 on or after July 1, 2004.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2004.